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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

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|                                  |   |                            |
|----------------------------------|---|----------------------------|
| In Re:                           | ) | Case No.: 19-26265         |
| Candelario Pena and Erika R Pena | ) |                            |
|                                  | ) | Chapter 13                 |
|                                  | ) |                            |
| Debtor(s)                        | ) | Judge Janet S. Baer (KANE) |

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NOTICE OF MOTION

TO: Candelario Pena and Erika R Pena, 262 Windsor Ct, Unit A South Elgin, IL 60177  
*via US mail*

Trustee Glenn B Stearns, 801 Warrenville Road Suite 650 Lisle, IL 60532 *via ECF clerk's electronic delivery system*

U.S. Trustee, 219 S. Dearborn Suite 873, Chicago, IL 60604 *via ECF clerk's electronic delivery system*

*See attached service list*

PLEASE TAKE NOTICE that on **October 11, 2019 at 9:30 AM** I shall appear before the Honorable Janet S. Baer at the Kane County Courthouse 100 S. Third Street, Room 240 Geneva, IL 60134 or any Judge presiding and then and there present the **Motion**, a copy of which is attached hereto.

By: /s/ David H. Cutler  
David H. Cutler  
Counsel for Debtor(s)  
Cutler & Associates, Ltd.  
4131 Main St,  
Skokie, IL 60076  
Phone: (847) 673-8600

CERTIFICATE OF SERVICE

I, David H. Cutler, hereby certify that I caused to be served, electronically or through U.S. Mail, a copy of the foregoing Notice and Motion upon the parties named above on October 4, 2019 before the hour of 6:00 p.m.

By: /s/ David H. Cutler  
David H. Cutler, esq.,

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MOTION TO EXTEND STAY THE AUTOMATIC STAY

NOW COME the Debtors, Candelario Pena and Erika R Pena, by and through their attorneys, the law office of CUTLER & ASSOCIATES, LTD., and in support of their Motion, state as follows:

- 1) This Court has jurisdiction over this proceeding pursuant to 28 USC 1334 and this is a “core proceeding” under 28 USC 157(b)(2).
- 2) The Debtors filed for relief under Chapter 13 of the United States Bankruptcy Code on September 17, 2019.
- 3) The Debtors proposed a plan that will repay 10% to their general unsecured creditors with a payment of \$253.00 per month for 60 months.
- 4) The Debtors had a prior Chapter 13 case that was dismissed on August 2, 2019 case number: 18-22162, within a year of filing, due to the Trustee’s motion to dismiss for failure to make plan payments.
- 5) In the prior case, Debtors were paying their vehicle inside of the plan and they could not afford the high plan payment and their living expenses.
- 6) In the instant case, Debtors are surrendering their vehicle as such their plan payment is lower allowing them to afford their plan payments and living expenses.
- 7) In the instant case, Debtors have had a positive change in circumstances, they have budgeted their income and expenses and they are surrendering their vehicle which

has significantly decreased their plan payment as such they can afford to make their monthly bankruptcy plan payments in a feasible chapter 13 plan.

- 8) Debtors have provided this Honorable Court with an affidavit of change and income and expense schedules, see the attached affidavit and schedules I and J from their previous Chapter 13 Bankruptcy case, and the schedules I and J from their current Chapter 13 Bankruptcy case. See Affidavit and Exhibits A and B respectively.

WHEREFORE, the Debtors pray that this Court enter an Order Extending the Automatic Stay, and for such further relief that this Court may deem just and proper.

Dated: 10/4/19

Respectfully Submitted,

By: /s/ David H. Cutler  
David H. Cutler, esq.,  
Counsel for Debtor(s)  
Cutler & Associates, Ltd.  
4131 Main St,  
Skokie, IL 60076  
Phone: (847) 673-8600